

Decision **DRAFT DECISION OF ALJ WALKER** (Mailed 10/21/2004)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Carl M. Retzlaff and/or Ronale Case and those
residents similarly situated, et al.,

Complainants,

vs.

Regal Mobile Estates, et al.,

Defendants.

Case 04-03-002
(Filed March 4, 2004)

OPINION DENYING COMPLAINT**1. Summary**

Ten residents of Regal Mobile Estates (Regal), a mobilehome park in Costa Mesa, California, complain that the owners of the park have not correctly calculated refunds due submetered tenants based on pass-through of a rate reduction resulting from a one-time refund credit received by Southern California Edison Company (SCE). By Administrative Law Judge (ALJ) Ruling, SCE was added to this proceeding as a necessary party for the limited purpose of examining and commenting on the underlying refund practice of Regal. In addition, the Western Manufactured Housing Community Association (WMA) filed comments. Based on these comments and on additional information from the parties, the record shows that the mobilehome park calculated refunds in a manner that does not violate the Public Utilities Code, utility tariffs or other applicable law. Accordingly, the complaint is denied, and this case is closed.

2. Background

Complainants allege that Regal incorrectly calculated a one-time Department of Water Resources Refund Credit (the DWR Refund Credit) and made refunds to park tenants that were too low, too high or otherwise inaccurate. Complainants base this on an SCE letter dated September 26, 2003, that described the DWR Refund Credit and explained to mobilehome park owners and other master-meter customers how SCE credited their accounts. The letter used a credit factor of \$0.00669 to calculate the credit owed to master-meter customers based on kilowatt-hour (kWh) use by the master-meter customers during the period August 1, 2002, to July 31, 2003.

In its answer, Regal denied the material allegations of the complaint and stated that complainants were given all the refunds due them. It later provided its workpapers showing its calculation of the DWR Refund Credit to each of the 10 complainants in this case. The amounts involved range from about \$7 to \$26.

3. Comments by SCE and WMA

The ALJ added SCE to this case as a necessary party¹ for the limited purpose of examining and commenting on the underlying refund practice of the mobilehome park in light of Pub. Util. Code § 739.5. Under § 739.5, SCE is required to establish tariffs governing its provision of service to a master-meter mobilehome park operator and to notify the park owner of its responsibilities in providing submetered service to tenants.

The operative SCE tariffs are Rule 18 (Supply to Separate Premises and Use by Others) and Schedule DMS-2 (Domestic Mobile Home Park Multifamily

¹ See West's Ann. C.C.P. § 389(a); *see also* Rule 63 of the Commission's Rules of Practice and Procedure.

Accommodation Sub-metered). SCE states that the tariffs were formulated based on Pub. Util. Code § 739.5 subsections (a) through (f).

Schedule DMS-2 is a master-meter rate applicable to a mobilehome park where all the mobilehome units are separately submetered. The master-meter customer (SCE's customer) is billed using this rate for the kWh recorded on the master meter. Schedule DMS-2 is structured so that the master-meter customer is billed (before submetering discounts are applied) at approximately the same dollar amount as the total of the submetered tenants' bills, if both the master-meter customer and tenants were billed on the exact same billing cycle or date. Schedule DMS-2 instructs the master-meter customer to read the submeters and bill tenants at the same rates that SCE would charge if SCE were providing the service directly to the tenants.

SCE points out, however, that a master-meter customer generally does not read the submeters on the same billing date as the master meter is read, thus resulting in unmatched billing periods.

The master-meter customer receives a submetering discount through the DMS-2 rate schedule. This discount is intended to compensate the master-meter customer for the reasonable costs of operating and maintaining the submetered system. These costs are expenses that SCE would have incurred if the mobilehome park was not submetered.

Although both Schedule DMS-2 and Rule 18 address how a submetered tenant should be billed by a mobilehome park, neither tariff addresses how a one-time refund like the DWR Refund Credit to the master-meter customer should be distributed to submetered tenants.

WMA, which represents owners of mobilehome parks in California, comments that, in the absence of tariffs governing how a one-time refund is to be

distributed to tenants, the practice among mobilehome owners is to follow the dictate of § 739.5(b), which states:

Every master-meter customer of a gas or electric corporation subject to subdivision (a) who, on or after January 1, 1978, receives any rebate from the corporation shall distribute to, or credit to the account of, each current user served by the master-meter customer that portion of the rebate which the amount of gas or electricity, or both, consumed by the user during the last billing period bears to the total amount furnished by the corporation to the master-meter customer during that period.

According to WMA, the practical application of § 739.5(b) has been the subject of discussion between it, the utilities and Commission staff for at least two years. As SCE has noted, a master-meter customer rarely reads and bills its submetered tenants on the same billing cycle or date as the master meter is read and billed by SCE, so unmatched billing periods are created. Neither the Code nor utility tariffs offer guidance on this practice.

WMA notes that the issue may be addressed in a broad Order Instituting Rulemaking/Order Instituting Investigation (OIR 03-03-017/OII 03-03-018), in which the Commission asked the parties to consider the following topic:

Issue 7 – Should the Commission revise the methods and/or formulas by which refunds are currently paid to submetered tenants by MHP owners? If so, how? (*See* January 29, 2004 Ruling of ALJ Jeffrey P. O'Donnell.)

At the time this complaint was filed, a decision in OIR 03-03-017/OII 03-03-018 had not been issued. In any event, any change in the manner in which refunds are paid to submetered tenants by mobilehome park owners would be prospective in nature and would not affect the disposition of this case.

4. Discussion

Regal states that it followed § 739.5(b) in calculating the DWR Refund Credit for tenants. The rebate period on the master meter bill that included Regal's DWR Refund Credit was August 29, 2003, to September 30, 2003. The tenant billing period that most closely matched those dates was the usage period of September 11, 2003, to October 11, 2003. The previous billing for the tenants was August 11, 2003, to September 11, 2003. The park prorated its kWh usage between the two tenant billing periods, then divided the total DWR Refund Credit it had received by total kWh usage to determine a rebate factor of \$0.072967 per kWh. It multiplied that amount by each tenant's kWh use during the billing period of August 11, 2003, to September 11, 2003, which was the "last billing period" prior to the park's receipt of the DWR Refund Credit.

Complainants here argue that SCE's letter to Regal used a rebate factor of \$0.00669 for the period August 1, 2002, to July 31, 2003, and they believe that factor and time period should have been used for tenant refunds. SCE's letter was in response to the Commission's Decision (D.) 03-09-018, which ordered that a reduction in DWR's 2003 revenue requirement was to be returned to bundled utility customers paying the bond charge via a one-time bill credit. In describing how the credit should be calculated, the Commission stated that the usage should be based on the last 12 months of each customer's usage in order to recognize both summer and winter usage. (D.03-09-018.) The decision, however, addressed utility "customers," not the submetered tenants of utility customers. By the same token, SCE's letter was addressed to its master-meter "customers," not the submetered tenants of the customers.

SCE tells us that neither its tariffs nor its letter to mobilehome customers like Regal dealt with distribution of the DWR Refund Credit to submetered

tenants of those customers. It was logical then for Regal to base its calculation on § 739.5(b), the only controlling source for a distribution to current users served by a master-meter customer. Similarly, the park's proration of kWh usage during two tenant billing periods to approximate the total kWh usage for the dates of August 29, 2003, to September 30, 2003 (the billing period to which the park's DWR Refund Credit was applied), and computation of the tenant refund factor based on the total amount of the DWR Refund Credit divided by the park's kWh usage for that period, were logical steps in complying with § 739.5(b).

As noted, the refund practice for submetered mobilehome park tenants may be further addressed in other proceedings before this Commission. Meanwhile, however, the facts here and the information supplied by SCE, WMA, Regal, and Complainants show that Regal's handling of the DWR Refund Credit as to submetered tenants was reasonable, and did not violate Pub. Util. Code § 739.5, utility tariffs, or other provisions of the law. Accordingly, the complaint is denied, and this case is closed.

5. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. No comments were filed.

6. Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Glen Walker is the assigned ALJ in this proceeding.

In the Instructions to Answer notice in this case, this proceeding was deemed adjudicatory, and a hearing was deemed necessary. As explained above, a hearing became unnecessary because the written submissions of the

parties SCE and WMA provided sufficient information to resolve the disputed issues.

Findings of Fact

1. Regal received a DWR Refund Credit of \$2,173.02 in its master meter bill for the period of August 29, 2003, to September 30, 2003.
2. SCE in a letter dated September 26, 2003, explained to master-meter customers like Regal how the DWR Refund Credit had been calculated for them.
3. SCE did not instruct master-meter customers how they were to calculate and distribute the DWR Refund Credit to submetered tenants of the master-meter customers.

Conclusions of Law

1. Distribution of the DWR Refund Credit pursuant to Pub. Util. Code § 739.5(b) was reasonable.
2. Regal reasonably measured total kWh park usage for a prorated period approximating the SCE billing period in which the DWR Refund Credit was included.
3. Regal reasonably applied the resulting rebate factor to the kWh usage of each of its eligible submetered tenants in order to calculate refunds in compliance with Pub. Util. Code § 739.5(b).
4. Since there has been no violation of Pub. Util. Code § 739.5(b), utility tariffs or other provisions of law, the complaint should be dismissed.

O R D E R

IT IS ORDERED that:

1. The complaint is dismissed.
2. An evidentiary hearing is not required.

3. Case 04-03-002 is closed.

This order is effective today.

Dated _____, at San Francisco, California.